

## AN ACT

ENTITLED, An Act to establish certain restrictions regarding the sale and purchase of products containing pseudoephedrine or ephedrine and to provide penalties for violation thereof.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. No retailer may sell, in a single transaction, more than two packages containing pseudoephedrine or ephedrine as an active ingredient. For purposes of this Act, the term, retailer, means any person who sells merchandise at retail and from whom original packages of nonprescription drugs are sold or taken to be sold at retail. Any retailer or any employee of a retailer who sells packages containing pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1 misdemeanor.

Section 2. No person may purchase, in a single transaction, more than two packages containing pseudoephedrine or ephedrine as an active ingredient. Any person who purchases packages containing pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1 misdemeanor.

Section 3. Any retailer who offers for sale a product containing pseudoephedrine as the product's sole active ingredient shall display and offer the product for sale, except as otherwise provided, behind a counter where the public is not permitted or in a locked case so that a customer wanting access to the package must ask a store employee for assistance. The retailer may display or offer for sale without restriction a product containing pseudoephedrine as the sole active ingredient if the product is displayed using any type of anti-theft device system including an electronic anti-theft device system that utilizes a product tag and detection alarm which prevents the theft of the product. This section does not apply to any package of a product containing pseudoephedrine as the product's sole active ingredient which is in liquid, liquid cap, or gel cap form or any package of a product containing pseudoephedrine as the product's sole active ingredient which is primarily intended for

administration to children under twelve years of age, according to the product's label, regardless of whether the product is in liquid or solid form.

Section 4. Any retailer who offers for sale any combination product containing pseudoephedrine or ephedrine as an active ingredient, any package of a product containing pseudoephedrine as the product's sole active ingredient which is in liquid, liquid cap, or gel cap form or any package of a product containing pseudoephedrine as the product's sole active ingredient which is primarily intended for administration to children under twelve years of age, according to the product's label, regardless of whether the product is in liquid or solid form, shall display and offer such product for sale, except as otherwise provided, within twenty feet of a counter which allows the attendant to view the products in an unobstructed manner. A retailer may display or offer for sale without restriction any of the products listed in this section if the product is displayed using any type of anti-theft device system, including an electronic anti-theft device system that utilizes a product tag and detection alarm which prevents the theft of the product.

Section 5. A retailer shall post notice at the location where a product containing pseudoephedrine or ephedrine as an active ingredient is displayed or offered for sale stating the following:

South Dakota law prohibits the sale or purchase of more than two packages containing pseudoephedrine or ephedrine as an active ingredient.

Section 6. No employee or retailer is civilly liable to any injured person or the person's estate for any injury suffered, including any wrongful death, or property damage suffered due to the sale of any pseudoephedrine or ephedrine product in violation of section 1 of this Act.

Section 7. No county or municipality may establish requirements or establish a penalty that is higher or more stringent than the requirements or penalties established by this Act.

An Act to establish certain restrictions regarding the sale and purchase of products containing pseudoephedrine or ephedrine and to provide penalties for violation thereof.

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I certify that the attached Act  
originated in the

SENATE as Bill No. 221

\_\_\_\_\_  
Secretary of the Senate  
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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 221  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State